

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
CHARLOTTE, NC

SEP 12 2014

US District Court
Western District of NC

Lucy Horton,

Plaintiff

TRIAL BY JURY DEMANDED

-v-

CASE NO. 3:14-cv-505

Enhanced Recovery Company, LLC,

Defendant,

VERIFIED COMPLAINT

PRELIMINARY STATEMENT

1. Plaintiff, Lucy Horton, hereby files this complaint against Defendant, Enhanced Recovery Company, LLC of its violations of the Fair Credit Reporting Act ("FCRA") 15 U.S.C. § 1681 *et seq.* and the Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. § 1681 *et seq.*

I. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1681p; 28 U.S.C. § 1337; and supplemental jurisdiction exists for statutory claims pursuant to 28 U.S.C. § 1331.
3. Venue is proper in the Western District of North Carolina pursuant to 28 U.S.C. §1391b (1), in that the Plaintiff resides here; the Defendant transacts business here; and the conduct complained of occurred here.
4. All conditions precedent to the bringing of this action has been performed.

II. PARTIES

5. Plaintiff, Lucy Horton is a natural person residing in Charlotte, North Carolina and is a "consumer" as defined in FCRA 15 U.S.C. § 1681a(c).

6. Defendant Enhanced Recovery Company, LLC is a Florida corporation with a principal address of 9014 Bayberry Road, Jacksonville, FL 32256.
7. Defendant Enhanced Recovery Company, LLC is a “debt collector as defined by 15 U.S.C. 1681a(6).

III. FACTUAL ALLEGATIONS

8. In April of 2014, Plaintiff received a collection (hereinafter “dunning”) letter from Defendant dated March 31, 2014, demanding payment of an alleged debt.
9. In May of 2014 and without validating the alleged debt, Defendant again sent to Plaintiff another dunning letter.
10. On June 18, 2014, Plaintiff sent to Defendant by certified mail with return receipt requested, bearing a tracking number of 7012 3460 0002 7902 5639 a validation request of the alleged debt.
11. Defendant received the validation request on June 20, 2014.
12. In July of 2014, Defendant responded with a computer-generated statement dated July 11, 2014 from an alleged creditor that appeared to from the year 2012.
13. The printed computer generated form included an account number and amounts unknown to Plaintiff.
14. In August of 2014, Plaintiff obtained her Experian credit report dated August 9, 2014 and discovered that Defendant had inquired into her consumer credit report on March 28, 2014.
15. Plaintiff has never given her consent for Defendant to acquire or inquire into her consumer credit report from any credit reporting agency.
16. In August of 2014 Plaintiff sent a notice and demand to defendant informing Defendant of their violations and giving them the opportunity to settle the matter prior to the filing of this suit.
17. Defendant has not responded to date.
18. Plaintiff suffers from frustration, anger, and anxiety as a result of Defendant’s violations and

therefore seek damages as a result of Defendant's negligent and noncompliant acts.

CAUSES OF ACTION

IV. COUNT I

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT ("FDCPA"), 15 U.S.C. §1692, et seq., BY DEFENDANT

19. Paragraphs 1-18 are re-alleged as though fully set out herein.
20. The Defendant attempted to collect (2).
21. Defendant's conduct violated §1692g of the FDCPA by not sending to Plaintiff a written notice within five days after the initial communication by Plaintiff in connection with the collection of an alleged debt.
22. Defendant's conduct violated 15 U.S.C. § 1692b in that after Plaintiff sent a debt validation request disputing the debt within the 30-day period; Defendant did not cease communications with Plaintiff because Defendant provided no validation of alleged debt.

V. COUNT II

VIOLATION OF THE FAIR CREDIT REPORTING ACT, 15 U.S.C. §1681, WILLFUL NON-COMPLIANCE BY DEFENDANT ENHANCED RECOVERY

24. Paragraphs 1-23 are re-alleged as though fully set out herein.
25. Discovery of violations brought forth herein occurred in April of 2014 and are within the statute of limitations as defined in the FCRA, 15 U.S.C. 1681p.
26. Plaintiff is a consumer within the meaning of the FCRA, 15 U.S.C. § 1681a(c).
27. Experian is a credit reporting agency within the meaning of the FCRA, 15 U.S.C. § 1681a(f).
28. The consumer credit report is a consumer report within the meaning of the FCRA, 15 U.S.C. § 1681a(d).
29. Plaintiff invokes her private right of action to assert claims of relief against Defendant arising under 15 U.S.C. § 1681(n).
30. All actions taken by Defendant were done with willfully and with the knowledge that their actions would very likely harm Plaintiff; and/or that their actions were taken in violation of the

FCRA; and/or that Defendant knew or should have known that its actions were in reckless disregard of the FCRA.

31. Defendant's negligent and noncompliant acts may have been a direct violation of 15 U.S.C. §1681(n) and 15 U.S.C. § 1681(o).
32. Defendant's actions are willful and negligent and appears to be in violation of 15 U.S.C. § 1681n because it knew or should have known that its intrusion into Plaintiff's personal consumer credit report, is a violation of her personal privacy.
33. Plaintiff seeks a determination from the court to make Defendant liable for its violations for statutory damages, actual damages, and attorney's fees to be decided at trial and all fees and costs of Plaintiff pursuant to FCRA 15 U.S.C. Section 1681n.

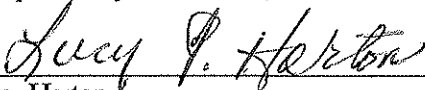
VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant and in favor of Plaintiff as follows:

1. That Plaintiff be awarded costs of litigation, actual or statutory and punitive damages pursuant to 15 U.S.C. § 1681n;
2. Statutory damages, costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;
3. Actual damages;
4. That the Court grant any such further and additional relief as is just in these circumstances.

Dated: September 10, 2014

Respectfully submitted,



Lucy Horton
1732 Vantage Place
Charlotte, NC 28216